

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Brenda Clayton	Case No.
Plaintiff,	
v.	<b>COMPLAINT FOR DAMAGES UNDER THE FAIR DEBT COLLECTION PRACTICES ACT, THE TELEPHONE CONSUMER PROTECTION ACT AND OTHER EQUITABLE RELIEF</b>
Asset Acceptance, LLC	
Defendant.	<b>JURY DEMAND ENDORSED HEREIN</b>

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**PARTIES**

1. Plaintiff, Brenda Clayton, ("Brenda"), is a natural person who resided in Winter Springs, Florida, at all times relevant to this action.
2. Defendant, Asset Acceptance, LLC, ("AA"), is a Delaware Limited Liability Company that maintained its principal place of business in Warren, Michigan, at all times relevant to this action.

**JURISDICTION AND VENUE**

3. Pursuant to 28 U.S.C. §1331, this Court has federal question jurisdiction over this matter as it arises under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692 et seq. and the Telephone Consumer Protection Act, U.S.C. §1367(a).
4. Pursuant to 28 U.S.C. §1391(b), venue is proper because Defendant resides in this judicial district.

**STATEMENT OF FACTS**

5. AA uses a predictive dialer system.

6. Before AA began contacting Brenda, it and Brenda had no prior business relationship and Brenda had never provided express consent to AA to be contacted on her cellular telephone.
7. AA regularly uses instrumentalities of interstate commerce and the mails to collect consumer debts owed or due or asserted to be owed or due another.
8. The principal source of AA's revenue is debt collection.
9. AA is a "debt collector" as defined by 15 U.S.C. §1692a(6).
10. As described, *infra*, AA contacted Brenda to collect a debt that was incurred primarily for personal, family, or household purposes.
11. This alleged obligation is a "debt" as defined by 15 U.S.C. §1692a(5).
12. Brenda is a "consumer" as defined by 15 U.S.C. §1692a(3).
13. On several occasions, the dates of which will be discovered through discovery, AA willingly and knowingly used an automatic telephone dialing system to call Brenda on her cellular phone multiple times in violation of the TCPA. See *Mais v. Gulf Coast Collection Bureau, Inc.*, 2013 U.S. Dist. LEXIS 65603, \*10 (S.D. Fla. 2013); See also *Gager v. Dell Fin. Servs., LLC*, 727 F.3d 265 (3<sup>rd</sup> Cir. 2013).
14. Around March 2014, AA began contacting Brenda on Brenda's cellular phone in connection with the collection of the debt.
15. During one communication, around March 2014, Brenda requested AA cease further calls to Brenda.
16. Despite this request, AA contacted Brenda on Brenda's cellular phone in connection with the collection of the debt on numerous occasions, most recently around May 2014.
17. During one communication, AA threatened to garnish Brenda's wages if Brenda didn't pay the debt.

18. AA has not garnished Brenda's wages.
19. AA never intended to garnish Brenda's wages.
20. Around March 2014, AA contacted Brenda at Brenda's place of employment on the main line in connection with the collection of the debt.
21. During this communication, Brenda requested AA cease further calls to Brenda at Brenda's place of employment.
22. Despite this request, AA contacted Brenda at Brenda's place of employment in connection with the collection of the debt on numerous occasions, most recently around May 2014.
23. AA caused Brenda to lose focus at work.
24. On more than one occasion, Brenda's co-workers overheard AA's calls, which embarrassed Brenda.
25. Brenda repeatedly requested AA cease further calls to Brenda.
26. AA caused Brenda emotional distress.
27. AA attempted to collect a debt from Brenda.
28. AA violated the FDCPA and the TCPA.

#### **COUNT ONE**

##### **Violation of the Fair Debt Collection Practices Act**

29. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.
30. Defendant violated 15 U.S.C. §1692c(a)(1) by calling Plaintiff at a time or place known to be inconvenient for Plaintiff.

#### **COUNT TWO**

##### **Violation of the Fair Debt Collection Practices Act**

31. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

32. Defendant violated 15 U.S.C. §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff in connection with the collection of the debt.

**COUNT THREE**

**Violation of the Fair Debt Collection Practices Act**

33. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

34. Defendant violated 15 U.S.C. §1692e by using false, deceptive, or misleading representations or means in connection with the collection of the debt.

**COUNT FOUR**

**Violation of the Fair Debt Collection Practices Act**

35. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

36. Defendant violated 15 U.S.C. §1692f by using unfair or unconscionable means to collect the debt.

**COUNT FIVE**

**Violations of the Telephone Consumer Protection Act**

37. Plaintiff incorporates each of the preceding allegations as if specifically stated herein.

38. Defendant willingly and knowingly violated 47 U.S.C. § 227(b)(1)(A) on multiple and separate occasions by each time calling Plaintiff's cellular telephone using both an automatic telephone dialing system without Plaintiff's prior express consent.

**JURY DEMAND**

39. Plaintiff demands a trial by jury.

**PRAYER FOR RELIEF**

40. Plaintiff prays for the following relief:

- a. Judgment against Defendant for actual damages, statutory damages, and costs and reasonable attorney's fees pursuant to 15 U.S.C. §1692k.
- b. An order enjoining Defendant from placing further telephone calls to Plaintiff's cellular telephone number pursuant to 47 U.S.C. § 227(b)(3).
- c. Judgment against Defendant for statutory damages pursuant to 47 U.S.C. § 227(b)(3) for each and every call Defendant made in violation of the TCPA.
- d. For such other legal and/or equitable relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED,

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